

REMARKS

Applicants respectfully traverse the rejections of the December 30, 2008 Final Office Action, [hereinafter “Final”], and request consideration. Claims 1-5, 8, 9, 11, 14-16, 19 and 21-24 are pending in the application. Claims 6-7, 12-13, 18, and 20 are allowable but objected to for depending upon rejected base claims.

Allowable Subject Matter

Applicants thank the Examiner for noting the allowability of claims 6, 7, 12, 13, 18 and 20. See Final, page 20, ¶ 21. Although these claims are objected to as being dependent upon a rejected based claim, the Applicants have left these claims in their current form as the underlying base claims, that is, the independent claims, are believed to be patentably distinguishable from the newly cited reference (Nair ‘503). The Applicants therefore respectfully request reconsideration and withdrawal of the objection to the allowable claims in light of the discussion below with respect to the base claims.

Summary of the Examiner Interview of February 26, 2009

An Examiner Interview was conducted telephonically on March 25, 2009 between Examiner Ben C. Wang and Applicants’ representative, Joseph T. Cygan (Reg. No. 50,937). Applicants thank the Examiner for taking time to discuss the application. The 35 U.S.C. § 102(e) rejection under U.S. Patent No. 7,353,503 (issued Apr. 1, 2008) to Nair et al., [hereinafter “Nair ‘503”] was discussed. Applicants primarily argued that Nair ‘503 discusses use of an operands graph, and specifically states that it avoids going through the computer program on an instruction-by-instruction basis. This discussion may be found in Nair ‘503, col. 3, lines 25 through 28. Therefore the Applicants further asserted that, for example, the first element of claim 1 requiring “examining a first instruction of a machine code off of a worklist in memory,

wherein the first instruction includes a previous link and a write mask” is sufficient to overcome the § 102(e) rejection since, among other things, Nair does not describe “examining a first instruction.” The Examiner responded that he would consider the Applicants’ arguments and at least withdraw the finality of the Final Office Action if such action was deemed appropriate by the Examiner after further consideration of the Applicants’ arguments.

Applicants therefore present those arguments herein below for the Examiner’s further consideration.

Rejection under 35 U.S.C. § 102(e)

Claims 1-5, 8-9, 11, 14-16, 19, and 21-24 are rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 7,353,503 (issued Apr. 1, 2008) to Nair et al., [hereinafter “Nair ‘503”]. See Final, page 3, ¶ 4.

The Final states that Nair ‘503 discloses “examining a first instruction of a machine code off of a work list in memory wherein the first instruction includes a previous link and a write mask.” See Final, page 4. The Final cites to Nair ‘503, col. 2, lines 42 to 63 as disclosing this subject matter. See Final, page 4. However, Applicants are unable to identify such subject matter within the cited portion of Nair ‘503, or for that matter within the entirety of the Nair ‘503 disclosure. The point made in the Final on page 4 that Nair ‘503 “uses an operands as a mechanism by which to identify unused code” does not disclose “wherein the first instruction includes a previous link in a write mask.” See Final, page 4. In fact, the disclosure of Nair ‘503 specifically states that it does not examine instructions. “Rather than traverse the computer program on an instruction-by-instruction basis, looking for unused instructions, embodiments of the present invention traverse the operands graph.” See Nair ‘503, col. 3, lines 25-28. “Because the number of operands in a computer program is often less than the number of instructions, the

method of the present invention provides a faster optimization technique when compared to traditional methods of dead code elimination.” See Nair ‘503, col. 3, lines 28-32.

Therefore, Nair ‘503 does not disclose the subject matter of Applicants’ independent claim 1 and further therefore a rejection under 35 U.S.C. § 102(e) cannot be maintained. Likewise, Nair ‘503 does not disclose the similar features of Applicants’ other independent claims, that is, claims 8, 14 and 19. Therefore the 35 U.S.C. § 102(e) rejection of Applicants’ claims is improper and must be withdrawn.

Other elements of the claims are also distinguishable from Nair ‘503. For example, Nair ‘503 does not disclose “determining, using said previous link of said at least one second instruction, if any components within a particular field of the at least one second instruction are required, wherein said previous link of said second instruction links said second instruction with a prior instruction that writes at least one component of said components.” In contrast, Nair uses “any Static Single Assignment (SSA) algorithm . . . to generate operands graph 400.” See Nair ‘503, col. lines 60-62. Nair ‘503 reviews the operands but does not disclose a previous link and write mask included with an instruction, “wherein said previous link of said second instruction links said second instruction with a prior instruction that writes at least one component of said components.” The SSA algorithm discussed by Nair ‘503 indicates that Nair ‘503 is directed to scalar operations and does not address, among other things, “a prior instruction that writes at least one component of said components.” The operands graph disclosed by Nair ‘503 does not appear to address instructions that have “components within a particular field of the . . . instruction.”

Further, because no such components can be found in the disclosure of Nair ‘503, the next two features of claim 1 are also patentably distinguishable from Nair ‘503. That is, Nair

‘503 does not disclose “when no components of the at least one second instruction are required, deleting the at least one second instruction from the machine code; and when any component of the at least one second instruction is required, adding the at least one second instruction to the worklist in the memory.”

Therefore Applicants believe claim 1, as well as the other independent claims, are in condition for allowance. Reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection in its entirety is respectfully requested.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant(s) has/have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned

Respectfully submitted,

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